

February 20, 2004

KATHLEEN J. REESE
805 FIFTH STREET
MUKILTEO WA 98275

Subject: Complaint Filed Against Tony Tinsley-PDC Case No. 04-287

Dear Ms. Reese:

The Public Disclosure Commission staff has completed its investigation of your complaint received October 17, 2003, alleging that Tony Tinsley sponsored political advertising that contained a false or implied endorsement in violation of RCW 42.17.

The PDC staff reviewed your allegations in light of the following statute:

RCW 42.17.530 prohibits a candidate from sponsoring with actual malice political advertising that contains a false or implied endorsement of any individual or organization, when in fact the candidate has not obtained such an endorsement. "Actual malice" means to act with knowledge of falsity or with reckless disregard as to truth or falsity. Any violation must be proven by clear and convincing evidence.

You alleged that Tony Tinsley violated RCW 42.17.530 by sponsoring political advertising that contained a false or implied endorsement of the Teamsters Local #763, when in fact Mr. Tinsley had not obtained such an endorsement.

We found that:

- Tony Tinsley contacted Teamsters Local 763 union in late August 2003, requesting its endorsement of his candidacy. On September 16, 2003, Mr. Tinsley received a letter from Dave Reynolds, Secretary-Treasurer of the Teamsters Local 763, confirming the endorsement.
- Mr. Tinsley produced and distributed a political advertisement shortly after the primary election that included his positions on a number campaign issues. He also included six endorsements, including one from Teamsters Local 763, and employees of Mukilteo Police and Public Works departments.
- Mr. Tinsley stated that he distributed the political advertisement at a number of campaign appearances, and also mailed a copy of the brochure to 2,400 absentee voters.

- On October 11, 2003, Mr. Tinsley received a letter from John Campbell, a business representative of Teamsters Local 763, stating that the Mukilteo Police Officers wished *"to remain neutral in political issues involving the city of Mukilteo"*, and stating that information had not been communicated to union individuals/officials that were involved in the endorsement process.
- Mr. Tinsley produced and distributed a post card that was inserted into the original political advertisement informing the recipient about the Teamsters Local 763 endorsement issue and clarifying that he received an endorsement from the Mukilteo Public Works union but not from the Mukilteo Police Officers Union. That clarifying political advertisement was mailed between October 17 and the 20th to the same recipients that received the initial mailing.
- Mr. Tinsley also produced an additional mailing close to the 2003 general election and included an insert that was distributed along with the original political advertisement informing the recipient about the Teamsters Local 763 endorsement issue. Mr. Tinsley sent out that mailing to 1,400 people that were likely to vote on the date of the election, stating that the Mukilteo Police officers that are members of the Teamsters Local 763 union wished to remain neutral in the endorsement issue. In addition, Teamsters Local 763 also provided similar clarifying information distributed through the local newspaper.

On September 16, 2003, the Teamsters Local 763 confirmed in writing to Tony Tinsley their organizations endorsement of his candidacy for Mukilteo City Council. Based in part on that information, Mr. Tinsley prepared and distributed political advertising that communicated a number of endorsements his campaign had received, including the Teamsters Local 763. After being contacted by the Teamsters Local 763 about the "non-endorsement" stance taken by the Mukilteo Police Officers Union of any candidates, Mr. Tinsley took corrective action to inform voters about the "partial endorsement" of his candidacy by Teamsters Local 763 and Mukilteo Public Works Union, and explaining the neutral position of the Mukilteo Police Officers Union. Thus, staff does not believe a violation of RCW 42.17.530 occurred by Tony Tinsley or his campaign.

After a careful review of the alleged violations and relevant facts, we have concluded our investigation, and with the concurrence of the Chair of the Public Disclosure Commission, I am dismissing your complaint against Tony Tinsley.

If you have questions, please contact Phil Stutzman, Director of Compliance, at (360) 664-8853 or toll free at 1-877-601-2828.

Sincerely,

Vicki Rippie
Executive Director

Kathleen Reese
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c: Tony Tinsley